

IN THE  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS---EASTERN DIVISION

UNITED STATES OF AMERICA,

VS

08 CR 888

Honorable James B. Zagel

ROD BLAGOJEVICH.

DEFENDANT ROD BLAGOJEVICH'S RESPONSE TO GOVERNMENT'S  
MOTION TO SUPPRESS EVIDENCE FAVORABLE TO THE ACCUSED

1. In an obvious and flagrant attempt to convince this honorable court that it has the power and authority to prevent the accused from demonstrating his innocence, and that somehow the leading legal principles are stood on their heads and are henceforth to be known as **Maryland v Brady**, and **Ohio v Mapp**, the government has requested the court partake in the government's efforts to *predetermine* the outcome of the trial by denying to the fact finder all exculpatory evidence. Hence, the government has moved "in limine" that the court suppress from the jury's knowledge clearly exculpatory evidence of the defendant's actual innocence. If granted, the defendant will be denied due process of law and fundamental fairness.

2. The government seeks to gain an appallingly unfair advantage while at the same time expressing the fear that the jury may indeed clearly see that "one side has suppressed information as a means of seeking unfair advantage." [Gov. motion, pp.1] That is exactly what the government's motion is.

3. The historical progression (regression?) in this case is atrocious. On December 09, 2008, the United States Attorney lauded himself as he bragged to the world in a widely reported press conference that the he had acted to stop “a crime spree”; that he had lost sleep with worry about the Chicago Tribune; and that “Lincoln was rolling in his grave”; etc. etc. The same United States Attorney then quoted extensively from the actual tapes (although they were then under seal). Next, portions of the recordings were released to the Illinois House of Representatives Impeachment Committee (but the defendant’s efforts to present other recordings were denied.) Recently, more excerpts from the recordings were released to the public in the form of a government’s **Santiago** proffer.

4. The government now having accomplished all that it can by way of releasing what it considers recordings damaging to the defendant presently moves the court to bar those portions which the defendant assures the court will exonerate him, and which the defendant believes the government itself *knows* will exonerate him.

5. The defendant’s position has always been a consistent one: Allow either side to play any recording at least once before the jury.

6. The government further attempts to accomplish its goal by misrepresenting the defendant’s position with such statements as: “...counsel themselves have already conceded orally to the Court that not every call should be played.” The defendant’s position was, is and always will remain that either side must be permitted to play any recording before the jury at least once. Let there be no misunderstanding on that. The defense has seen no order from this court denying “the motion to play all the tapes.” [Gov. motion, pp.4]

7. The defense is mystified as to what the government is afraid of, unless it is, as the government itself suggests, and as quoted supra, the jury will see for itself that the government seeks a one-sided trial in which the government gets to present its evidence, precludes the defense from presenting its own highly exculpatory evidence, and then successfully hides from the jury the government tactics which amount to the suppression of significant evidence favorable to the accused.

/s/ Sam Adam

**Sam Adam**

**6133 South Ellis Avenue**

**Chicago, Illinois 60637**

**(312) 726-2326**

**Attorney for Rod Blagojevich**